

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

DENNIS COOK : CASE NO. C-1- 02-073  
Plaintiff : Judge Weber  
vs. : MOTION TO CORRECT FILING DATE  
CITY OF NORWOOD, et al. :  
Defendant :

Now comes the Plaintiff, by and through undersigned counsel, and moves the Court for an order to correct the filing date of the Plaintiff's motion for attorney fees pursuant to S.D.Ohio Civ. R. 5.1(f). The filing date for the Plaintiff's Motion for Attorney Fees on the Clerk's docket states January 4, 2005 as the result of a technical failure in using the ECF system by the Plaintiff's counsel. Specifically Plaintiff's counsel was unable to download the completed document in a format acceptable to the ECF system after numerous attempts and the original filing was incorrectly submitted as the result of the Plaintiff's counsel attempt to file the document on January 3, 2005. The filing was deleted and was required to be refiled due to an improper format used in the filing of the original document.

The Plaintiff's counsel has conferred with opposing counsel pursuant to S.D.Ohio Civ. R. 7.3(a) for the City of Norwood whose interests might be affected by the granting of the relief requested and the motion is not opposed.

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/s/Robert G. Kelly

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MEMORANDUM

Local Rule 5.1(f) of the Southern District permits an untimely filing as the result of a technical failure or other incorrect filing caused by some other error in using the ECF system may be corrected upon Motion submitted pursuant to S.D. Ohio Civ. R. 7.3(b). Plaintiff's counsel conferred with counsel for the Defendant City of Norwood, Lawrence E. Barbieri, on January 5, 2005 concerning the filing date of the Plaintiff's Motion for Attorney Fees and Defendant City of Norwood does not object to the correction of the filing date to January 3, 2005 and Defendant City of Norwood does not oppose this motion.

The Plaintiff represents to the Court that all documents were prepared and affidavits completed prior to the deadline and any delay in submitting them for filing was the result of a technical failure and not the result of a failure to prepare the documents timely for submission to the Court.

/s/Robert G. Kelly

Robert G. Kelly

CERTIFICATE OF SERVICE

I hereby certify a copy of the foregoing was served upon the following individuals Lawrence Barbieri, Esq., Attorney for City of Norwood, W. McGregor Dixon, Esq., Attorney for Joseph Hochbein, Steven Martin, Esq., Attorney for Gary Hubbard, and James F. Brockman, Esq., Attorney for Kevin Cross, through the ECF system of the United States District Court, Southern District of Ohio and sent by regular mail, postage prepaid to all who are not listed to receive filings through the ECF system this 17<sup>th</sup> day of January 2005.

/s/Robert G. Kelly

Robert G. Kelly